

109TH CONGRESS  
2D SESSION

# H. R. 5917

To amend the Internal Revenue Code of 1986 to provide that tips received for certain services shall not be subject to income or employment taxes.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 27, 2006

Mr. SODREL (for himself, Mr. HUNTER, Mr. MCHENRY, Mr. ROHRABACHER, Mr. KUHLMAN of New York, Mrs. BLACKBURN, Mr. PENCE, Mr. SIMMONS, Mr. GERLACH, Mr. PAUL, and Ms. HARRIS) introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to provide that tips received for certain services shall not be subject to income or employment taxes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. TIPS RECEIVED FOR CERTAIN SERVICES NOT**  
4 **SUBJECT TO INCOME OR EMPLOYMENT**  
5 **TAXES.**

6 (a) IN GENERAL.—Section 102 of the Internal Rev-  
7 enue Code of 1986 (relating to gifts and inheritances) is  
8 amended by adding at the end the following new sub-  
9 section:

1 “(d) TIPS RECEIVED FOR CERTAIN SERVICES.—

2 “(1) IN GENERAL.—For purposes of subsection  
3 (a), tips received by an individual for qualified serv-  
4 ices performed by such individual shall be treated as  
5 property transferred by gift.

6 “(2) QUALIFIED SERVICES.—For purposes of  
7 this subsection, the term ‘qualified services’ means  
8 cosmetology, hospitality (including lodging and food  
9 and beverage services), recreation, taxi, newspaper  
10 deliveries and shoe shine services.

11 “(3) ANNUAL LIMIT.—The amount excluded  
12 from gross income for the taxable year by reason of  
13 paragraph (1) with respect to each service provider  
14 shall not exceed \$10,000.

15 “(4) EMPLOYEE TAXABLE ON AT LEAST MIN-  
16 IMUM WAGE.—Paragraph (1) shall not apply to tips  
17 received by an employee during any month to the ex-  
18 tent that such tips—

19 “(A) are deemed to have been paid by the  
20 employer to the employee pursuant to section  
21 3121(q) (without regard to whether such tips  
22 are reported under section 6053), and

23 “(B) do not exceed the excess of—

24 “(i) the minimum wage rate applica-  
25 ble to such individual under section 6(a)(1)

1 of the Fair Labor Standards Act of 1938  
2 (determined without regard to section 3(m)  
3 of such Act), over

4 “(ii) the amount of the wages (exclud-  
5 ing tips) paid by the employer to the em-  
6 ployee during such month.

7 “(5) TIPS.—For purposes of this title, the term  
8 ‘tips’ means a gratuity paid by an individual for  
9 services performed for such individual (or for a  
10 group which includes such individual) by another in-  
11 dividual if such services are not provided pursuant  
12 to an employment or similar contractual relationship  
13 between such individuals.”.

14 (b) EXCLUSION FROM SOCIAL SECURITY TAXES.—

15 (1) Paragraph (12) of section 3121(a) of such  
16 Code is amended to read as follows:

17 “(12)(A) tips paid in any medium other than  
18 cash;

19 “(B) cash tips received by an employee in any  
20 calendar month in the course of his employment by  
21 an employer unless the amount of such cash tips is  
22 \$20 or more and then only to the extent includible  
23 in gross income after the application of section  
24 102(d);”.

1           (2) Paragraph (10) of section 209(a) of the So-  
2       cial Security Act is amended to read as follows:

3           “(10)(A) tips paid in any medium other than  
4       cash;

5           “(B) cash tips received by an employee in any  
6       calendar month in the course of his employment by  
7       an employer unless the amount of such cash tips is  
8       \$20 or more and then only to the extent includible  
9       in gross income after the application of section  
10      102(d) of the Internal Revenue Code of 1986 for  
11      such month;”.

12          (3) Paragraph (3) of section 3231(e) of such  
13      Code is amended to read as follows:

14          “(3) Solely for purposes of the taxes imposed  
15      by section 3201 and other provisions of this chapter  
16      insofar as they relate to such taxes, the term ‘com-  
17      pensation’ also includes cash tips received by an em-  
18      ployee in any calendar month in the course of his  
19      employment by an employer if the amount of such  
20      cash tips is \$20 or more and then only to the extent  
21      includible in gross income after the application of  
22      section 102(d).”.

23      (c) EXCLUSION FROM UNEMPLOYMENT COMPENSA-  
24      TION TAXES.—Subsection (s) of section 3306 of such  
25      Code is amended to read as follows:

1       “(s) TIPS NOT TREATED AS WAGES.—For purposes  
2 of this chapter, the term ‘wages’ shall include tips received  
3 in any month only to the extent includible in gross income  
4 after the application of section 102(d) for such month.”.

5       (d) EXCLUSION FROM WAGE WITHHOLDING.—Para-  
6 graph (16) of section 3401(a) of such Code is amended  
7 to read as follows:

8               “(16)(A) as tips in any medium other than  
9 cash;

10              “(B) as cash tips to an employee in any cal-  
11 endar month in the course of his employment by an  
12 employer unless the amount of such cash tips is \$20  
13 or more and then only to the extent includible in  
14 gross income after the application of section  
15 102(d);”.

16       (e) CONFORMING AMENDMENT.—Sections  
17 32(c)(2)(A)(i) and 220(b)(4)(A) of such Code are each  
18 amended by striking “tips” and inserting “tips (to the ex-  
19 tent includible in gross income after the application of sec-  
20 tion 102(d))”.

21       (f) EFFECTIVE DATE.—The amendments made by  
22 this section shall apply to tips received after the calendar  
23 month which includes the date of the enactment of this  
24 Act.

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